

Appl. No. 09/474,783  
Response Dated February 28, 2006  
Reply to Final Office Action of November 29, 2005

**REMARKS**

Claims 1, 4-7, 9, and 12-21 are pending in the present application. Claims 1, 7, and 19 have been amended. Reconsideration and allowance of the pending claims are respectfully requested.

Claims 1, 4-7, 9, and 12-21 stand rejected under 35 U.S.C. 103(a) as being unpatentable over USPN 5,619,247 (Russo) in further view of USPN 4,945,563 (Horton). Applicants traverse and request reconsideration and removal of the rejection.

In the previous response, independent claims 1, 7, and 19 were amended to recite “the descriptor to indicate *whether the storage device may store the received broadcast content prior to viewing*, and once stored, a length of time the playback device may reproduce the received broadcast content.” (emphasis added). Applicants argued that Russo and Horton fail to teach or suggest at least this feature of independent claims 1, 7, and 19.

In again rejecting claims 1, 4-7, 9, and 12-21, the present Office Action admits on page 7 that “Russo, further fails to explicitly teach where the descriptor, indicates whether the storage device may store the received broadcast content prior to viewing.” To remedy this admitted deficiency of Russo, the Office Action relies on Horton which allegedly “teaches broadcasting audiovisual content along with embedded control information to define an action to be taken pertaining to the received content, explicitly storing the received broadcast content (col. 3 lines 38-67), ‘coded information embedded in the TV signal,’ ‘indication...of various modes available with this particular program’).

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While Applicants traverse the grounds of rejection set forth in the present Office Action, Applicants have further amended the independent claims in order to advance prosecution. In particular, independent claims 1, 7, and 19 have been further amended to recite "the descriptor to indicate whether the storage device may store the received broadcast content prior to viewing and without reproducing the received broadcast content."

Horton, at the cited portion, teaches:

The receiver 20 includes a descrambling circuit 26 which descrambles the television program and feeds it to a decoder 28. The decoder 28 decodes the coded information embedded in the TV signal and provides an indication to an operator of the various modes available with this particular program. These modes may be displayed and input by an operator select circuit 30 which is accessible through an operator remote control 32. *The modes which may be made available include view only, view and tape for fee, and view and tape for free.* Depending upon the mode selected, the TV program will then be routed along conductor 34 corresponding to view and tape for free; or through the copy protect circuit 36 where it would be formatted for to view and tape for a fee; or through antitape circuitry 38 where it would be formatted for view only. After being formatted, as appropriate, the television program is output along conductor 40 for connection to a user's monitor 42, or special VCR 44, as desired. Additionally, the decoder 28 would provide billing information to the billing info store and hold circuit 46 which can be transmitted at a convenient time to the proper billing authority so that the user can be billed according to the mode he has selected.

As an alternative to the billing info hold and store circuit 46, the program may be further encoded such that the cable TV or satellite distribution system can pre-authorize the receiver 20 to receive the program and also to indicate the mode of reception. In such a case, the pre-authorization would eliminate the need for billing info hold and store circuit 46 as the billing information would be

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generated from the central office. *See* col. 3, lines 37-68  
(emphasis added).

As described above, Horton clearly fails to teach or suggest at least "the descriptor to indicate whether the storage device may store the received broadcast content prior to viewing and without reproducing the received broadcast content" as recited by amended independent claims 1, 7, and 19. Applicants further submit Horton teaches away from the claimed descriptor and to modify Horton to include such as descriptor would be contrary to the principle of operation of Horton.

Applicants submit that in view of the teachings of Horton and the admitted deficiencies of Russo, these references are insufficient to establish a *prima facie* case of obviousness with respect to amended independent claims 1, 7, and 19. Namely, neither Russo nor Horton teaches or suggests "the descriptor to indicate whether the storage device may store the received broadcast content prior to viewing and without reproducing the received broadcast content" as recited by amended independent claims 1, 7, and 19. As such, even if Russo and Horton could be combined, which Applicants do not admit, such combination would still fail to teach or suggest all the claim limitations. Applicants submit that independent claims 1, 7, and 19 are allowable for at least this reason and that claims 4-6, 9, 12-18, 20, and 21 are allowable by virtue of their dependency, as well as on their own merits.

Accordingly, reconsideration and withdrawal of the rejection of claims 1, 4-7, 9, and 12-21 are respectfully requested.

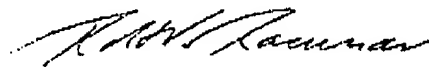
It is believed that claims 1, 4-7, 9, and 12-21 are in allowable form. Accordingly, a timely Notice of Allowance to this effect is earnestly solicited.

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The Examiner is respectfully requested to contact the undersigned by telephone if such contact would further the examination of the present patent application.

Respectfully submitted,

KACVINSKY LLC



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Under 37 CFR 1.34(a)

Dated: February 28, 2006

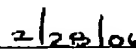
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I hereby certify that this correspondence is being transmitted by facsimile on the date shown below to the United States Patent and Trademark Office.



Deborah L. Higham



Date